

STATE OF RHODE ISLAND

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

v.

ADEDAMOLA ODUNLAMI

:
:
:
:
:

**C.A. No. T20-0012
19001540187**

DECISION

PER CURIAM: Before this Panel on February 17, 2021—Magistrate Goulart (Chair), Judge Almeida, and Judge Parker sitting—is Adedamola Odunlami’s (Appellant) appeal from a decision of Magistrate Noonan (Trial Magistrate) of the Rhode Island Traffic Tribunal, sustaining the charged violation of G.L. 1956 § 31-14-2, “Prima facie limits.” The Appellant appeared before this Panel *pro se*. For the reasons set forth in this opinion the appeal is denied. Jurisdiction is pursuant to § 31-41.1-8.

I

Facts and Travel

On December 31, 2019 Sergeant John J. Gadrow (Sergeant Gadrow) of the Rhode Island State Police issued a violation to the Appellant for speeding 88 miles per hour in a 50 miles per hour zone on Route 95. *See* Summons No. 19001540187. The Appellant pled not guilty to the charged violation and the matter proceeded to trial on November 24, 2020. At trial, Sergeant Gadrow testified that on December 31, 2019, he was traveling northbound on Route 95 near the intersection of Route 195, when he observed a Black Dodge Challenger pass his vehicle on the left going at a high rate of speed. *Id.* at 2:3-7. He was able to position his unmarked cruiser behind the vehicle to obtain a moving radar speed of 88 miles an hour in a 55 miles an hour

zone. *Id.* at 2:7-9. Sergeant Gadrow activated his emergency lights, conducted a motor vehicle stop, and identified the operator as the Appellant by his Rhode Island driver's license number. *Id.* at 2:7-11. However, using his discretion, Sergeant Gadrow cited the Appellant for traveling 65 miles per hour in a 55 miles per hour zone. *Id.* at 2:11-12.

Sergeant Gadrow further testified as to his police training and experience and stated that he had attended the Rhode Island State Police Academy where he was trained in the use of radar devices and received periodic training on new devices. *Id.* at 1:20-23. He further testified that on December 31, 2019, he internally and externally calibrated the radar unit used in this case, and it was in good working order. *Id.* at 2:1-2.

Next, the Appellant testified at trial stating that he did not speed past the officer. *Id.* at 2:19-20. The Appellant explained that he was driving in the low speed lane when he noticed a car following him and that he sped up and moved into the fast lane to avoid any type of accident. *Id.* at 2:20-24.

At the end of trial, the Trial Magistrate found that the state had met its burden. *Id.* at 3:10-11. The Trial Magistrate found the officer to be credible and adopted his testimony as his findings of fact. *Id.* at 3:3-4. Specifically, the Trial Magistrate found that Sergeant Gadrow was operating near I-195 and that he observed a vehicle traveling at a high rate of speed. *Id.* at 3:5-7. Furthermore, the Trial Magistrate found that Sergeant Gadrow used a radar device, for which he had been trained, and which was calibrated to obtain a speed of 88 miles per hour in a 55 miles per hour zone. *Id.* at 3:5-8. Based on the testimony, the Trial Magistrate determined that the state had proven its case by clear and convincing evidence and found the Appellant guilty of the charged violation. *Id.* at 3:11-20. The Appellant subsequently filed this timely appeal.

II

Standard of Review

Pursuant to § 31-41.1-8, the Appeals Panel of the Rhode Island Traffic Tribunal possesses appellate jurisdiction to review an order of a judge or magistrate of the Rhode Island Traffic Tribunal. Section 31-41.1-8(f) provides in pertinent part:

“The appeals panel shall not substitute its judgment for that of the judge or magistrate as to the weight of the evidence on questions of fact. The appeals panel may affirm the decision of the judge or magistrate, or it may remand the case for further proceedings or reverse or modify the decision if the substantial rights of the appellant have been prejudiced because the judge’s findings, inferences, conclusions or decisions are:

- “(1) In violation of constitutional or statutory provisions;
- “(2) In excess of the statutory authority of the judge or magistrate;
- “(3) Made upon unlawful procedure;
- “(4) Affected by other error of law;
- “(5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- “(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

In reviewing a hearing judge or magistrate’s decision pursuant to § 31-41.1-8, this Panel “lacks the authority to assess witness credibility or to substitute its judgment for that of the hearing judge [or magistrate] concerning the weight of the evidence on questions of fact.” *Link v. State*, 633 A.2d 1345, 1348 (R.I. 1993) (citing *Liberty Mut. Ins. Co. v. Janes*, 586 A.2d 536, 537 (R.I. 1991)). “The review of the Appeals Panel is confined to a reading of the record to determine whether the judge’s [or magistrate’s] decision is supported by legally competent evidence or is affected by an error of law.” *Id.* (citing *Envtl. Sci. Corp. v. Durfee*, 621 A.2d 200, 208 (R.I. 1993)). “In circumstances in which the Appeals Panel determines that the decision is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record or is

affected by error of law, it may remand, reverse, or modify the decision.” *Id.* Otherwise, it must affirm the hearing judge’s (or magistrate’s) conclusions on appeal. *See Janes*, 586 A.2d at 537.

III

Analysis

On appeal, Appellant argues that he was not speeding but if he was driving over the speed limit, the trooper caused him to speed due to Sergeant Gadrow tailgating him. For a radar unit reading to be admissible at trial, the testifying officer must satisfy two preliminary requirements: “the operational efficiency of the radar unit was tested within a reasonable time by an appropriate method,” and “testimony setting forth [the officer’s] training and experience in the use of a radar unit.” *State v. Sprague*, 113 R.I. 351, 355-357, 322 A.2d 36, 39-40 (1974). Moreover, “radar speed meter readings are admissible without a prior showing of the reliability of the [device] that was used to test the accuracy of the radar unit.” *Id.* at 357, 40.

At trial, Sergeant Gadrow testified as to the operational efficiency of the radar unit that he used to determine the speed of Appellant’s vehicle. (Tr. 1). It is clear that the radar unit was “tested within a reasonable time and by an appropriate method” as Sergeant Gadrow stated that he calibrated the radar internally and externally and that the radar was in good working order. *Sprague*, 113 R.I. at 355-357, 322 A.2d at 39-40; (Tr. 2:1-2). Sergeant Gadrow also stated that he was “train[ed] in the use of the radar and tracking devices” at the Rhode Island State Police Academy, which satisfies the second prong of *Sprague*. *Id.* at 355-57, 39-40; (Tr. 1:20-22).

The Trial Magistrate considered Officer Gadrow’s testimony and found the testimony to be credible. (Tr. 3:4). In doing so, the Trial Magistrate determined the radar gun was calibrated before the stop and in good working order. *Id.* at 3:6-7. Furthermore, the Trial Magistrate found that the defendant’s admission that he sped up for safety purposes was additional evidence

establishing the violation. *Id.* at 3:17-18. As this Panel “lacks the authority to assess witness credibility or to substitute its judgment for that of the hearing judge [or magistrate] concerning the weight of the evidence on questions of fact,” this Panel will not disturb the Trial Magistrate’s factual findings or credibility determinations. *Link*, 633 A.2d at 1348.

Therefore, based on a review of the record, this Panel is satisfied that the Trial Magistrate did not overlook or misconceive material evidence, and the decision was supported by reliable probative, and substantial evidence. *See* § 31-41.1-8(f)(5).

IV

Conclusion

This Panel has reviewed the entire record before it. Having done so, the members of this Panel determine that the Trial Judge’s decision was not clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. *See* § 31-41.1-8(f)(5). The substantial rights of the Appellant have not been prejudiced. Accordingly, Appellant’s appeal is denied, and the charged violation is sustained.

ENTERED:

Magistrate Alan R. Goulart (Chair)

Judge Lillian Almeida

Judge Edward C. Parker

DATE: _____